

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

UNITED STATES OF AMERICA)	Case No.: 2:19-CR-006
)	
vs.)	SUPPLEMENT to
)	SENTENCING MEMORANDUM
GARY BLAIR SHAFFER)	

The Defendant, since the filing of his sentencing memorandum, has had several developments in his health that he asks the Court consider in support of his previous request for a variance.

First, the Defendant contracted COVID-19 in late September and early October. His condition became severe enough to require a six-day hospital stay. Luckily, he recovered from the disease and was told by his doctor that he was most likely immune from the virus for around 90 days. The CDD reports that there is no surety among the scientific community at this time about the length or extent of immunity for those who contract COVID-19.¹

[Can people who recover from COVID-19 be re-infected with SARS-CoV-2?](#) —

The immune response, including duration of immunity, to SARS-CoV-2 infection is not yet understood. Patients infected with other betacoronaviruses (MERS-CoV, HCoV-OC43), the genus to which SARS-CoV-2 belongs, are unlikely to be re-infected shortly (e.g., 3 months or more) after they recover. However, more information is needed to know whether similar immune protection will be observed for patients with COVID-19.

Although he has recovered from COVID-19, his trip to the hospital revealed two additional previously unknown medical conditions – diabetes and spots on his lungs. It is true that diabetes is a disease which the Bureau of Prisons has regular experience monitoring. However, Mr.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/faq.html#:~:text=The%20immune%20response%2C%20including,is%20not%20yet%20understood> (last visited 10/27/2020).

Shaffer's diabetes puts him at additional substantial risk should he contract COVID-19 again.²

Diabetes

Having type 2 diabetes increases your risk of severe illness from COVID-19. Based on what we know at this time, having type 1 or gestational diabetes may increase your risk of severe illness from COVID-19.

Perhaps more concerning are the spots on Mr. Shaffer's lungs that were revealed on a scan during his stay in the hospital for COVID-19 treatment. Mr. Shaffer is currently scheduled for an initial appointment with a pulmonologist on Friday, November 5, 2020.

These additional medical problems provide additional support for Mr. Shaffer's previous request for a variance from the guidelines as calculated in his case. Specifically, the Court should consider the need "to provide the defendant with needed . . . medical care . . . in the most effective manner." 18 U.S.C. § 3553 (a)(2)(D). These additional medical issues justify a sentence of non-incarceration for Mr. Shaffer because he can best get the medical treatment he needs at somewhere other than the Bureau of Prisons. The requested sentence of probation and a fine will provide Mr. Shaffer a continuity of medical care and ensure that his sentence is not inadvertently converted to a death sentence.

Respectfully submitted,

/s/ Cody J. Groeber

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² <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last visited 10/27/2020).